

Sec. 17-42. Definitions.

(a)

Dwelling unit means any structure or part of a structure used as a home residence, providing living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, including, but not limited to apartment units, boarding houses, rooming houses, emergency shelters, mobile home spaces, public housing, subsidized housing and single and multi-family dwellings.

(b)

Residential rental property is any property on which one or more dwelling units are located that the owner thereof ~~rents~~ lets, either entirely or in part, to another person for occupancy as a dwelling unit.

(c)

Chronic nuisance means nuisance activity which occurs on three or more instances, on the same property or dwelling unit, during any 120-day period of any one or any combination of the activities listed below and as a result of any three separate factual events that have been independently investigated by any law enforcement agency or code enforcement personnel that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.

(1)

Disorderly conduct as defined in Section 26-1 of the Criminal Code of ~~1961~~ 2012.

(2)

Any felony crime or class A misdemeanor.

(3)

~~Violation of chapter 19, sections 19-4 or 19-5 of the city Code controlling offensive use of property. Violation of any municipal ordinance or State of Illinois statute controlling offensive use of property, including, but not limited to the following violations:~~

- a. International Property Maintenance Code Section 302.1 and 308.1 Sanitation;
- b. International Property Maintenance Code Section 302.4 Weeds;
- c. International Property Maintenance Code Section 302.8 Motor Vehicles;
- d. International Property Maintenance Code Section 302.5;
- e. International Property Maintenance Code Section 302.9 Defacement;
- f. International Property Maintenance Code Section 302.7 Accessory Structures;
- g. International Property Maintenance Code Section 304.2 Protective Treatment;
- h. International Property Maintenance Code Section 404.5;
- i. City of Rockford Code of Ordinances Section 3-13 Public Drinking and Possession of Alcoholic Liquor with a Broken Seal;
- j. City of Rockford Code of Ordinances Section 4-59 Barking Dogs;
- k. City of Rockford Code of Ordinances Section 17-33 Miscellaneous Noise Sources;

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- l. City of Rockford Code of Ordinances Section 17-34 Animal Noise;
- m. City of Rockford Code of Ordinances Section 17-35 Nuisance Noises;
- n. City of Rockford Code of Ordinances Section 19-3 Offensive Uses of Property;
- o. City of Rockford Code of Ordinances Section 19-4 Permitting Offensive Uses of Property;
- p. City of Rockford Code of Ordinances Section 19-19 Loitering;
- q. City of Rockford Code of Ordinances Section 19-20 Public Urination and Defecation Prohibited;

An act of domestic violence, dating violence, sexual assault or stalking in which the victim is the tenant or occupant shall not qualify as a nuisance activity under this section.

(d)

City official means the chief of police, the deputy director of community development, the building code official, legal director, or any of their designees.

(e)

Nuisance activity means any activities described in items one through three of subsection (b) of this section and which the property manager has been notified as having occurred, provided the owner has supplied the city with property contact information by registering information at an on line site provided by the city. If the owner has failed to register property contact information through an on-line registration system provided by the city, notice of each occurrence of nuisance activity shall not be a condition precedent to proceeding under the terms of this section.

(f)

Owner means any person having any legal or equitable interest to title in the residential rental property in question.

(g)

Tenant means an individual who has a legal right to occupy and control a residential unit.

(h)

Occupant means any person who resides in the property with the written consent of the owner or is a child of the tenant or occupant under the age of 18.

(i)

Guest means any person on the property that is not the owner, tenant or occupant.

(j)

Person means any natural person, partnership, limited partnership, corporation, limited liability company, or other entity organized under the laws of the any state of the United States.

(k)

Permitted means to knowingly suffer, allow, consent to, acquiesce or expressly assent or agree to the doing of an act.

(l)

Property manager means a natural person representing himself, a partnership, corporation, unincorporated association, limited partnership, trust or any other individual or entity, who has been designated by an owner, to whom notification of incidents of nuisance activity or code violations may be made, and who has authority to resolve issues identified within said notice. An owner may designate himself as property manager.

(m)

Housing board is an appointed advisory committee whose purpose is to evaluate situations where chronic nuisance activity is occurring and recommend what action should be considered to abate the nuisance activity. The housing board consists of community volunteers who reside in the city, are appointed by the mayor and approved by a majority vote of the city council to staggered three-year terms. The housing board shall establish its own procedures and may, by a majority vote of the board members, appoint a licensed attorney who resides in the city to volunteer as legal counsel to the board. Legal counsel shall be advisory only and not a voting member of the board. Housing board members shall not be employed by any unit of government or any housing authority. The board members shall be comprised of the following:

(1)

A person who is an active member of a neighborhood association while serving on the housing board;

(2)

A person who is an active member of the Rockford Apartment Association while serving on the housing board, is a current owner and has a minimum of five years of experience as an owner of residential rental property;

(3)

A person who is an Illinois licensed real estate broker, experienced in residential rental investments, and who is an active member of the Rockford Area Association of Realtors while serving on the housing board;

(4)

A person who has leased his residence in the city for two consecutive years preceding his appointment and continues to lease his residence while serving on the housing board; and

(5)

A citizen at large

(n) Let/Let for occupancy is to permit, provide or offer possession or occupancy of a dwelling unit, by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

(Ord. No. 2013-024-O, 2-13-2013)

Sec. 17-43. Contact information required.

Except as otherwise provided in this article, it shall be unlawful and a violation of this section for any dwelling unit, in whole or in part, except for a single family owner occupied dwelling, to be occupied, let, rented, or leased, unless the owner has provided property contact information with the city. Except as otherwise provided herein, no fee shall be imposed on an owner for providing contact information.

All owners shall register each residential rental property with the city community development department. Such registration shall be made on-line at (TBD) with a software program provided by the city. The information registered must include:

- (1) Identify the location of the property by common address and property identification number (PIN);
- (2) The number of dwelling units in the residential rental property;
- (3) The name, address, e-mail address and telephone number of each owner of the residential rental property. For purpose of this section, a contract buyer is not deemed the owner of the residential rental property unless the contract or a memorandum of contract has been recorded;
- (4) The name, address, e-mail address and telephone(s) numbers of the property manager or custodian of the residential rental property who

lives within 120 miles of the city, unless at least one owner of the structure satisfies this qualification;

(5)

The physical address of each owner or their registered agent for service of process. In the case of a trust or corporation, the name and contact information of a natural person that is the trustee/executor of the trust or corporation will suffice;

(6)

An optional field of the names of each tenant will be provided. An owner shall not provide the names of each tenant unless the terms of their lease stipulate that the information may be disclosed.

(b)

~~Unless otherwise specifically provided herein, registration of property contact information shall be renewed every two years. Property contact information registration renewals shall occur between February 1 and March 1 of each calendar year.~~

(c)

~~During each two-year registration period:~~ If there is any change in the information provided to the city on the form for registration of property contact information, the owner shall update information on line within 30 calendar days.

(d)

The city official shall make a good faith effort to utilize property contact information to inform an owner or his representative of calls for service by police within seven business days. The city official shall also make a good faith effort to utilize property contact information to inform an owner or property manager by email of reports of sanitation code violations prior to dispatch of a code enforcement inspector to the property. If the owner has failed to provide accurate email contact information, the city official shall be relieved of any obligation to inform an owner of reports of sanitation code violations by email prior to dispatch of a code enforcement official to the property.

(e)

When a tenant, occupant or a guest is responsible for any code violation as defined in 65 ILCS 5/11-19.2-1(e), the city official shall also make a good faith effort to contact the tenant and/or occupant, for the purpose of including him in any housing board proceedings; in a civil action resulting from a failure to comply with this section; or as the respondent in a code hearing proceeding as provided for in 65 ILCS 5/11-19.2-1(e). If a tenant's identity has not been disclosed in the property contact information then an owner or his property manager may notify the city in writing of the tenant's identity.

(f)

Failure to comply with the requirements of this section to provide property contact information for a residential rental property within 30 calendar days of the deadline as provided by the ordinance shall result in a fine of \$50.00.

Failure to comply with the requirements of this section to provide contact information for a residential rental property within 31 to 60 calendar days of the deadline as provided by the ordinance shall result in a fine of \$150.00.

Failure to comply with the requirements of this section to provide contact information for a residential rental property within 61 calendar days of the deadline as provided by the ordinance shall result in a fine up to ef \$50.00 to \$750.00 per day until the owner is in compliance.

(Ord. No. 2013-024-O, 2-13-2013)

Sec. 17-44. Procedure for addressing chronic nuisance activity.

(a)

After independent review of any police reports and determination by the city official that the activity described therein as occurring upon the residential rental property meets the definition of a chronic nuisance and that the owner, tenant and/or occupant permitted the nuisance activity to continue, the city official may refer the case to the housing board which may request that the owner thereof or its property manager, the tenant and/or the occupant meet with the housing board to discuss the nuisance activity and steps the owner, the tenant and/or occupant may take to mitigate or abate the activity in accordance with the following procedure:

The city official shall notify the owner or their property manager; in writing that activity at the property has met the status of a chronic nuisance. Such notice shall be provided by either personal delivery or by certified mail or by other reputable courier

service that provides written confirmation of delivery, addressed to the owner or his property manager. Notice shall also be sent in the same manner to the tenant(s) and occupant(s) of the property if known to the city. The notice shall contain the following information:

- (1)
The street address or a legal description sufficient for identification of the property where the nuisance activity has occurred.
- (2)
A statement by the city official with a detailed description of the offenses which meet the standard of nuisance activity and that the nuisance activity has become a chronic nuisance as defined by this section.
- (3)
A request that the owner or property manager, tenant and/or occupant respond and meet with the housing board at the earliest time at which the housing board convenes after receipt of notice. Refusal of receipt of notice shall be deemed receipt of the notice for the purposes of this section.

(b)

At the meeting between the housing board and the owner, property manager, the tenant and/or the occupant, the housing board may request that owner implement a reasonable abatement plan designed to alleviate and prevent future occurrences of the nuisance activity upon the residential rental property. The abatement plan shall be limited to the following:

- (1)
A recommendation that the owner perform necessary maintenance and repair of existing access, security and lighting, limiting access to common areas through the installation of locks, graffiti removal and the posting of "no trespass" signs;
- (2)
Banning individuals who are not tenants of the property who engage in nuisance activity in accordance with 735 ILCS 5/9-106.2(g);
- (3)
Offer municipal assistance with eviction proceedings;
- (4)

Recommend that the owner implement tenant screening policies and procedures and attend professional property management training.

The abatement plan shall be reasonable under the circumstances in its objective, cost and scope, and structured so as to be fully implemented within 30 days of the meeting with the housing board or such longer period to be fully implemented if not practically feasible to do so within 30 days. Persons appearing before the housing board may enter into a binding agreement to follow the recommendation of the housing board within the defined time line and be given the opportunity to comply prior to further action by the city.

(c)

If the nuisance activity has or is being conducted by a tenant or an occupant of the property or a guest then the tenant and/or occupant shall be advised of their obligation to maintain the premises in compliance with the law listed in section 17-424(c) of this section and that failure to do so may result in the following actions: termination of the tenant's legal right of control of the property and/or the imposition of fines against the tenant or an occupant.

(d)

In the event the notified tenant and/or occupant fails to respond and meet with the housing board or the tenant and/or occupant engaged in or permits the continuation of the nuisance activity then the city official may inform the owner that failure to take appropriate action to rescind the tenant and occupants' legal right of control of the property may be considered as the owner permitting the continuance of the nuisance activity.

(e)

If owner files suit to regain control of the property based on information provided by the city official then the city official shall assist by reasonably cooperating with the owner, including, but not limited to, providing law enforcement officers or any other municipal or county employee as witnesses regarding the nuisance activity.

(f)

If, after complying with the procedures of section 17-443(a) of this section:

(1)

Between 60 and 365 days after entering into an agreement to follow the recommendation of the housing board, the city official receives a report documenting the occurrence of a subsequent nuisance activity upon the property which was permitted by the owner; or

(2)

The owner fails to cause the implementation of a reasonable abatement plan as defined in a written agreement; or

(3)

The owner fails to respond and meet with the City Official within a 10 business day period without good cause, then the city may seek that the activity be declared a chronic nuisance in a civil action in a court of proper jurisdiction.

(g)

A notified party may request a separate hearing in front of the housing board if they have concerns with possible criminal activity on the part of another party and there is a credible belief that the information they provide may threaten their life or safety. The information gathered shall be done so with the participation of the city police department.

(h)

When an owner or the owner's representative responds and meets with the housing board as required above, no statements made in connection with the furnishing of that response or in a meeting shall constitute or be used as an admission that any nuisance activity has or is occurring. This subsection does not require the exclusion of any other evidence which is otherwise admissible and offered for any other purpose than an admission by the owner or the owner's representative.

(Ord. No. 2013-024-O, 2-13-2013)

Sec 17-45. Commencement of action; burden of proof; determination of a chronic nuisance; defenses.

(a)

The city, in a civil action in a court of proper jurisdiction, may seek a declaration that the owner, tenant or occupant of a property has permitted a chronic nuisance under this section. The city shall have the initial burden of showing by a preponderance of the evidence that:

(1)

The activity at the property meets the standard of a chronic nuisance as set forth is subsection 17-42(c)(1)(e) of this section; and

(2)

The procedures of section 17-443 of this section were followed by the city official; and

(3)

Either the owner, or the property manager or tenant failed to respond to notice served pursuant to subsection 17-443(a) of this section or the owner failed to implement an agreed abatement plan pursuant to subsection 17-443(b) of this section.

(b)

Upon the court determining that the elements of subsection (a) of this section have been met, then the court may, after the consideration of any defenses set forth below and all other facts and circumstances deemed relevant by the court, declare that the owner, tenant, and/or occupant of the property permitted a chronic nuisance.

(c)

It is a defense for the owner, tenant and/or occupant of the property to an action seeking the declaration of the activity as a chronic nuisance that the owner, tenant and/or occupant of the property, at the time in question could not, in spite of the exercise of reasonable care and diligence, prevent a third party from engaging in the conduct constituting the subsequent occurrence of nuisance activity.

(d)

The following shall also be defenses for an owner:

(1)

If prior to the owner being served process of the civil action, the owner or the owner's representative notified a law enforcement agency of suspected nuisance activity occurring on the property; or

(2)

The owner or property manager has begun legal proceedings to regain control of the property from a tenant or an occupant; or

(3)

That the nuisance activity was conducted by a person who has been banned from the property; or

(4)

An owner has made a good faith effort to implement the reasonable abatement plan requested by the housing board, pursuant to subsection 17-443(b) but the nuisance activity has not been abated; or

(5)

An owner, in trying to abate the nuisance activity attempted legal action to regain control and possession of the property from a tenant or an occupant but was denied by a court; or

(6)

That the owner is the victim of nuisance activity that threatens his life or safety.

(e)

The following shall also be a defense for a tenant or occupant:

(1)

If prior to the tenant or an occupant being served process of the civil action, the tenant or occupant notified a law enforcement agency of suspected nuisance activity occurring on the property; or

(2)

That the nuisance activity was conducted by a person who has been banned from the property; or

(3)

The tenant and/or occupant of the property are/is a victim of nuisance activity that threatens their/his life or safety.

(Ord. No. 2013-024-O, 2-13-2013)

Sec. 17-46. Penalties.

(a)

If a court determines that a chronic nuisance, as defined in subsection 17-49~~2~~(c), exists at the property, the following abatement of penalties may be imposed by the court upon the owner or the tenant:

(1)

A civil fine not to exceed \$750.00 per day or an injunction requiring the abatement of the nuisance activity that resulted in the activity being declared a chronic nuisance by the court.

(2)

Notwithstanding subsection (a)1 of this section, and whether or not it is a first or subsequent offense, if the court finds that an owner or a tenant failed to respond and meet with the housing board within the time prescribed without good cause, or if the court finds that an owner or a tenant willfully failed to implement of reasonable abatement plan requested by the housing board, the court may impose a civil fine or an injunction prohibiting the occupancy of the property where the nuisance activity reached the status of a chronic nuisance or in the case of a multiunit property, any dwelling unit thereof in question, for a period of up to six months. In the event occupancy is by lease agreement then the injunction prohibiting occupancy shall begin upon expiration of the current lease term.

(3)

Any fines imposed on the owner and remaining unpaid after 60 days of imposition of said fines shall attach to the property where the nuisance activity occurred as a lien.

(b)

If the court issues an injunction requiring the abatement of nuisance activity by a date certain set forth in the order for injunctive relief, the court, in its discretion, may impose a further fine not to exceed \$750.00 per day for each day the nuisance activity persists after the date certain,

(c)

In imposing any penalty, the court shall consider the following factors, and shall cite those found applicable:

- (1)
The action or lack of action taken by the owner or tenant to abate the nuisance activity upon the property;
- (2)
Whether the nuisance activity upon the property was repeated or continuous;
- (3)
The magnitude of gravity of the nuisance activity;
- (4)
The cooperation of the owner or property manager with the city official and housing board;
- (5)
The cost to the city for investigating and correcting or attempting to correct the nuisance activity; and
- (6)
Whether or not the nuisance activity could have been prevented by the owner or property manager exercising reasonable care and under the circumstances.

(Ord. No. 2013-024-O, 2-13-2013)

Sec. 17-47. Enforcement.

The community and economic development department shall have primary responsibility for enforcing this chapter. All residential rental property must be brought into compliance with the terms of this chapter 90 days after the availability of property registration software.